



## COUNTY OF STAFFORD DEVELOPER PERFORMANCE GUARANTEE EROSION AND SEDIMENT CONTROL

**Project Name:** \_\_\_\_\_

**Performance Agreement #:** \_\_\_\_\_

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ party of the first part, hereinafter DEVELOPER, and the BOARD OF SUPERVISORS OF STAFFORD COUNTY, VIRGINIA, party of the second part, hereinafter called BOARD. Hereinafter the Agent shall be defined as the County Administrator or his/her designee.

### WITNESSETH:

IN CONSIDERATION OF the approval by the Board through its Agent, of a subdivision plat/ site plan/ construction plan/infrastructure plan , hereinafter PLAN, for a project known as \_\_\_\_\_, Section \_\_\_\_\_, the Developer, for himself, and his heirs, personal representatives, assigns, or other successors in interest, agrees to construct and install all of the physical improvements and facilities shown on the approved plans and profiles, and approved revisions thereof, on or before \_\_\_\_\_ (no more than 2 years from the date of this agreement).

(Completion/Expiration Date)

### DEVELOPER FURTHER AGREES:

- I. To comply with all the requirements of the Stafford County Code which shall include the Security Policy adopted by the Board on June 18, 2013 and as may be subsequently amended, and that failure to do shall constitute default under this Agreement.

### Erosion & Sediment Control Ordinance:

- A. To fully familiarize himself and understand the provisions of the Stafford County Erosion and Sediment Control Ordinance (hereinafter E&S Ordinance) and Program, and to accept responsibility for carrying out the Plan for the above-referenced project as approved by the County.
- B. To grant the right-of-entry to designated personnel of Stafford County for the purpose of inspecting and monitoring for compliance in accordance with the E&S Ordinance.

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- C. To obtain the necessary Building or Grading Permit/s from the Agent and to abide by all requirements thereof.
- D. To conform all projects to no less than the minimum Standards and Specifications expressed in the Virginia Erosion and Sediment Control Handbook, Chapter 3, unless the standards established by the County are more restrictive than the minimum standards, or a variance has been granted in writing by the Agent.
- E. To notify the Agent when:
  - (i) the work commences and/or
  - (ii) the project is completed.
- F. To not commence any other work (including, but not limited to grading, excavating, construction) on the project until all of the required and approved erosion and sediment controls are in place as specified on the approved Plan.
- G. To be responsible for any and all damages to any other properties already in place as a result of work performed under this Agreement.
- H. To provide, maintain, repair and replace as necessary all of the erosion and sedimentation control and drainage improvements as required and shown on the approved plan and any approved revision thereof.
- I. To repair and/or maintain all improvements and to complete them to the satisfaction of the Agent within the specified time frame provided by the Agent.
- J. To make emergency repairs and/or maintain the physical improvements and/or facilities, as deemed necessary by the Agent, and to do so as soon as practicable, but in no case more than twenty-four (24) hours after notification by the Agent.
- K. That failure to complete all necessary construction, repairs and/or maintenance, and to maintain the erosion and sediment controls, as described above, shall constitute default under this Agreement and warrant the Agent issuing a notice of violation, issuing a stop work order and/or making demand of the surety for immediate action to bring the site into compliance with the plan or payment of the cost of the Board, through its Agent, to affect such maintenance and/or repair.
- II.** That no construction or improvement required hereunder shall be considered complete until it is accepted by the Agent and the governmental unit which is to have ultimate responsibility for its maintenance. The Developer further agrees to be responsible for all maintenance and correction of deterioration of the physical improvements and facilities until such acceptance.
- III.** To indemnify and hold harmless the County from all loss or damage to property, or injury, or death of any and all persons, or from any suits, claims liability or demands in connection with the physical

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improvements and facilities, however caused, arising directly or indirectly from construction, failure to maintain or use of such improvements prior to final acceptance.

- IV.** That if any clause or portion of this Agreement is found not to be valid and binding, the remainder shall continue in full force and effect. The parties intend that each provision of this Agreement be valid and binding upon each and all of them, and expressly agree to abide thereby.
- V.** That in the event that any suit, action or proceeding is brought by the County to enforce any provision of this Agreement, it is expressly agreed and understood that, regardless of when the breach of this Agreement occurs, the measure of damages recoverable shall be the total cost of the completion of the work required under this Agreement, adjusted for inflation, plus 25% administrative costs, and all legal costs to include attorney's fees established as of the earlier of the following two dates:
- A. When the work is actually completed and/or corrected and such work is approved and accepted by the appropriate County and/or state agency; or
  - B. The date of completion of any trial on the matter.

## **VI. Security**

To provide the Board with:

☐ **Cash/ Certified Check**

☐ **Letter Of Credit (LOC)**

Check Date: \_\_\_\_\_

LOC Date: \_\_\_\_\_

Check Number: \_\_\_\_\_

LOC Number: \_\_\_\_\_

Bank: \_\_\_\_\_

Bank: \_\_\_\_\_

In the respective amount of:

Total Amount Held \$ \_\_\_\_\_

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

STAFFORD COUNTY BOARD OF SUPERVISORS

By: \_\_\_\_\_

Anthony J. Romanello  
County Administrator

Developer Performance Guarantee

DEVELOPER/OWNER:

Company: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print or Type)

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

City, State, Zip Code

State of: \_\_\_\_\_  
(Corporation or Partnership indicate State where registered)

E-mail address: \_\_\_\_\_

Taxpayer ID No.: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Fax Telephone: \_\_\_\_\_

By: \_\_\_\_\_

(Signature)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_, to wit:

Acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by

\_\_\_\_\_, for Developer/Owner.

(Name of person seeking acknowledgment)

\_\_\_\_\_  
(Notary Public)

My Commission Expires:

\_\_\_\_\_

Authorized Signatures:

Incorporated Entity.....President, Vice-President, Secretary or Treasurer

Unincorporated Entity.....Owner

Partnership.....Partner

LLC.....Member, Managing Member, Manager